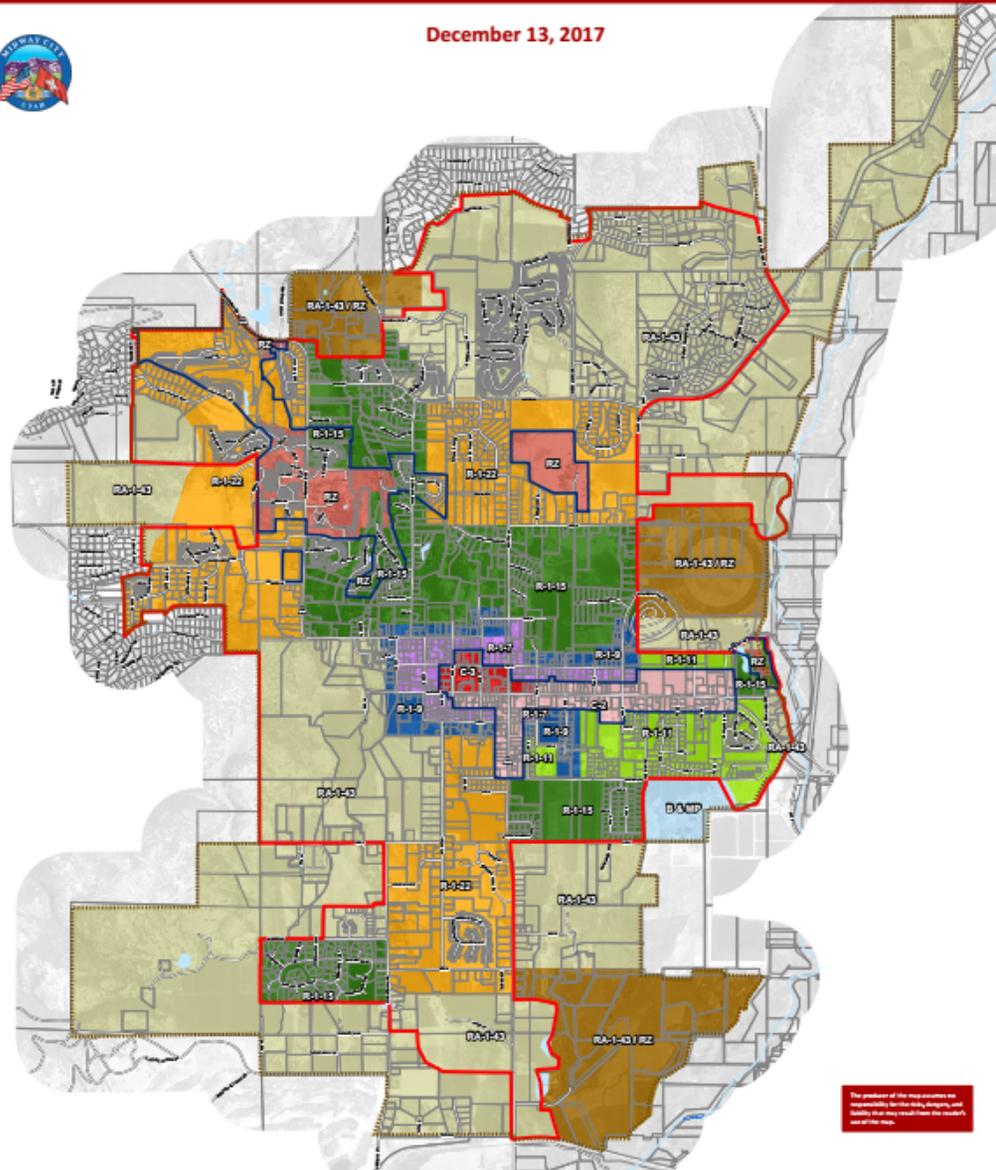


RECREATIONAL & RESORT ZONE
NOTICE OF PENDING ORDINANCE

RESOLUTION 2018-23

MIDWAY CITY - Land Use

December 13, 2017



The producer of the map assumes no responsibility for the city, planning and quality that may result from the user's use of the map.

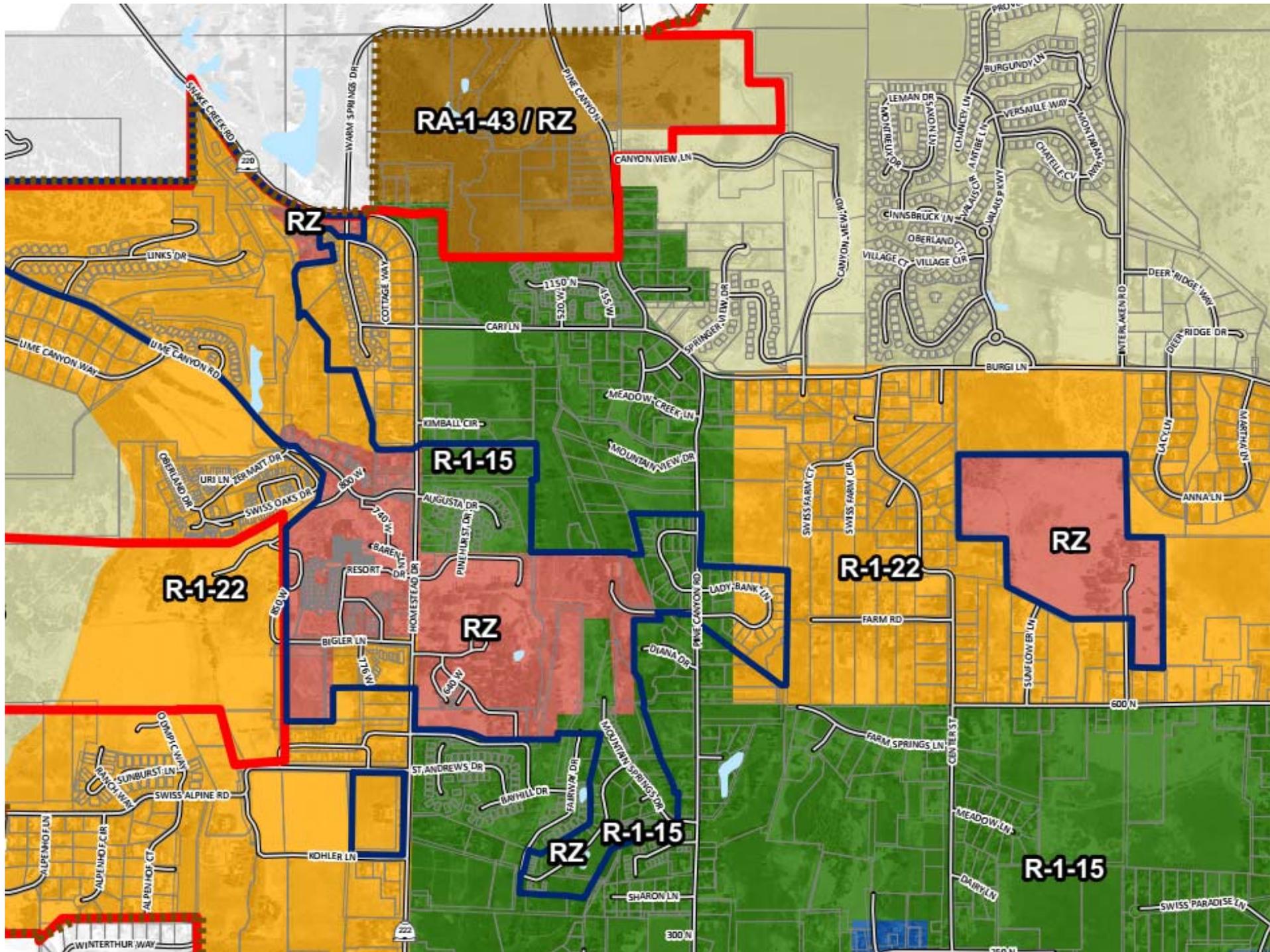
Legend

- | | |
|------------------------|-------------------|
| TR00 | Zoning RA-1-43/RZ |
| Midway City Boundary | Zoning B & MP |
| Midway Growth Boundary | Zoning C-2 |
| Rivers | Zoning C-3 |
| Roads | Zoning RA-1-15 |
| Water Body | Zoning R-1-11 |
| | Zoning R-1-10 |
| | Zoning R-1-9 |
| | Zoning R-1-8 |
| | Zoning R-1-7 |
| | Zoning R-1-6 |
| | Zoning RA-1-43 |
| | Zoning R-2 |
| | Zoning RA-1-43/RZ |



MOUNTAINLAND
ASSOCIATION OF GOVERNMENTS





RECREATIONAL & RESORT ZONE

- Adjusting the water requirements so water rights are required at the Master Plan stage of the approval process similar to the adjustment made recently for PUDs and large-scale subdivision that are multi-phased.
- Require commercial development with each master plan development in the RZ.
- Define permitted and conditional uses in the RZ.
- The current code is designed for large-scale resort developments but there are smaller parcels in the zone that cannot comply with current requirements such as setbacks. Staff would propose a large parcel resort zone code and a small parcel resort zone code to alleviate this issue.

RECREATIONAL & RESORT ZONE

- Currently there is not a density limitation in the RZ. Density limitations are based on open space, parking requirements, setbacks, and possibly height. The City should review this item and consider the implications.
- The RZ allows buildings over 35' in height and there is no maximum height listed. The City should also review this item and consider the implications.
- Eliminate the vague and ambiguous language throughout the code that is problematic for the City and for developers.
- This list is not intended to be a comprehensive list of every potential issue in Chapter 16.15. Staff is sure to find other items that are problematic that will be found during the revision process and is therefore asking that the entire chapter be part of the pending ordinance notice and therefore any section may be amended through this process.



RESOLUTION 2018-23

A RESOLUTION ADOPTING A NOTICE OF PENDING ORDINANCE REGARDING CHANGES TO THE RECREATIONAL RESORT ZONE WITHIN THE CORPORATE LIMITS OF THE CITY OF MIDWAY, WASATCH COUNTY, UTAH.

WHEREAS, the City Council finds that many of the City's ordinances, policies and procedures, which include, but are not necessarily limited to, the City's General Plan, zoning ordinance, subdivision ordinance, construction standards, street and traffic plan, water ordinances and policies, trails plan, storm water plan, and other similar documents and policies, are in the process of revision and need to be completed in order to fully implement the adopted General Plan; and

WHEREAS, the City Council finds that, unless the Pending Ordinance Doctrine is invoked, and a notice of pending ordinance is published, accepting development applications for subdivisions, planned unit developments, recreational resort developments, and other large-scale developments in certain locations within the City while the City is completing the revision and adoption of ordinances, policies and procedures will frustrate the comprehensive, long-range planning objectives that should characterize this process, and also may result in unfairly benefiting certain landowners while burdening others; and

WHEREAS, the City Council finds that publishing a notice of pending ordinance, and requiring all new applications for development and/or annexation to be bound by the terms and conditions of the new ordinances, will prevent landowners or developers from being unfairly impacted by the new ordinances; and

WHEREAS, the City Council finds that the Midway City Staff and the Mayor and Council have been and continue to work diligently on an ordinance amending the Recreational Resort Zone of the Midway City Code to more fully effectuate the terms, conditions and intent of the General Plan. The Notice of Pending Ordinances hereby adopted relates to the following pending ordinances:

1. Midway City is proposing a Code Text Amendment of Midway City's Land Use Code that would amend the requirements of the Recreational Resort Zone as currently

set forth in Section 16.15 of the Midway City Code. The proposed Amendment will include, among other items, amendments to the density limits within the zone, amendments to the maximum height of buildings within the zone, landscaping restrictions and amendments, and other changes to the Recreational Resort Zone.

WHEREAS, it is in the best interests of the City to complete the ordinance listed above, and to apply the terms and conditions of that ordinance to any new recreational resort development, amendment to development, or annexation that may occur within the City; and

WHEREAS, the City Council has determined that it would be in the best interests of the health, safety and general welfare of the citizens of Midway City to invoke the pending ordinance doctrine to require that all future applications for development and/or annexation in the City of Midway be subject to the terms of the pending ordinance described herein.

NOW THEREFORE, the City Council has determined that there is an important, compelling and countervailing public interest in completing the new ordinance before allowing significant new development to occur. Therefore, pursuant to Section 10-9a-504, *et seq.* of the Utah Code Annotated 1953, as amended, and for the reasons stated above, the City Council of the City of Midway, Wasatch County, Utah, hereby adopts, passes and publishes the following:

BE IT RESOLVED, by the City Council of Midway City, Wasatch County, State of Utah:

- 1. The Midway City Notice of Pending Ordinance, which is attached hereto and incorporated herein by this reference, is hereby approved and adopted by the City Council.*
- 2. No application for development approval or annexation shall receive final approval prior to the adoption and effective date of the above listed proposed Ordinance amending the Midway City Code.*
- 3. In order to protect public health, safety and welfare of the citizens of Midway, the City Council has determined that this Resolution shall take effect immediately upon publication as required by law and shall continue until the above listed ordinances are completed, adopted and become effective, or until the City Council votes negatively on those pending ordinances.*
- 4. This resolution does not affect any development or application or annexation petition currently filed or pending with the City on or before the date of this resolution. Further, this resolution does not affect applications for building permits within developments approved by the City prior to the date of*

this resolution or within developments covered by applications described in the previous sentence.

This resolution shall be effective immediately upon passage. A copy of this resolution shall be posted at each of three (3) public places within the corporate limits of Midway City and a summary published in a paper of local circulation.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah this ____ day of _____ 2018.

	AYE	NAY
Council Member Ken Van Wagoner	_____	_____
Council Member Lisa Christen	_____	_____
Council Member Bob Probst	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Jared Simonsen	_____	_____

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)

MIDWAY CITY
NOTICE OF PENDING ORDINANCES

Notice is hereby given by Midway City, Utah, that proposed ordinances are currently pending and under consideration

by the Midway City Council and/or the Midway City

Planning Commission for the following:

1. AMENDMENTS TO THE RECREATIONAL RESORT ZONE WITHIN THE BOUNDARIES OF MIDWAY CITY, UTAH

Copies of the proposed Ordinances are available in the Midway City Offices during normal business hours. ALL FUTURE APPLICATIONS FOR DEVELOPMENT APPROVAL WILL BE SUBJECT TO THE TERMS OF ANY AMENDMENTS TO THE CURRENT PROVISIONS OF THE MIDWAY CITY CODE. All applicants are hereby notified that the acceptance for filing and processing of any applications for development approval by Midway City will not create any vested rights, equitable issues or legal claims against Midway City. The applicant further acknowledges receipt and review of a copy of this Notice of Pending Ordinance and further understands and agrees that the acceptance for filing and processing of any application for development approval will be subject to any amendments to the Midway City Code currently pending and under consideration by the Midway City Council and/or the Midway City Planning Commission.

Brad Wilson, Midway City Recorder

DATE



ORDINANCE 2018-____

AN ORDINANCE AMENDING SECTION 16.15 OF THE MIDWAY CITY LAND USE CODE REGARDING THE RECREATIONAL RESORT ZONE, AND RELATED MATTERS.

WHEREAS, the Midway City has adopted a Land Use Code which includes a zone referred to as the Recreational Resort Zone (“RRZ”), located in Section 16.15 of the Midway City Code; and

WHEREAS, one of the express purposes of the RRZ is to create an economic and tax base that will benefit all of the residents of Midway; and

WHEREAS, the current RRZ does not have adequate requirements for commercial development within projects within the zone which would insure the development of the economic and tax base contemplated by the City; and

WHEREAS, the current RRZ does not contain adequate direction and/or height restrictions on buildings or density limits; and

WHEREAS, the current RRZ has not been amended to be consistent with other sections of the Midway City Code regarding the requirement that sufficient water rights are secured at the Master Plan stage of the approval process; and

WHEREAS, the current RRZ does not adequately provide for regulations governing the development of smaller parcels within the zone; and

WHEREAS, the current RRZ does not contain an adequate list of permitted and conditional uses within the Zone; and

WHEREAS, the proposed Code amendment contained herein is actively being developed by the Midway City Staff; and

WHEREAS, the proposed Code amendment will be presented to the Midway City Planning Commission who will then make their recommendations to the City Council; and

WHEREAS, notice regarding this proposed ordinance has given as provided by law; and

WHEREAS, the City Council accepts the recommendation of the Midway City Planning Commission, and agrees that it is in the best interest of the citizens of Midway that the Midway City Code be amended as contained herein:

NOW THEREFORE, for the reasons stated above, the City Council of the City of Midway, Wasatch County, Utah, hereby adopts, passes and publishes the following:

BE IT ORDAINED, by the City Council of Midway City, Wasatch County, State of Utah:

Section 16.15.2 of the Midway City Code is hereby amended, and shall hereafter read as follows:

Section 16.15.2

The Recreational Resort Zone currently applies to both larger and smaller parcels of property as described hereinbelow. The Recreational Resort Zone shall be divided into two sections: Large Recreational Resort Properties and Small Recreational Resort Properties. The approval process and requirements for both the Large Recreational Resort Properties and the Small Recreational Resort Properties shall be the same. However, the four small resort facilities referred to in subsection B shall have amended setback and other requirements as further set forth herein.

Section 16.15.4 (F) of the Midway City Code is hereby amended, and shall hereafter read as follows:

Section 16.15.4 (F) A Land Use Plan. The Recreational Resort Master Plan shall define the land use elements that are proposed for the development. The land uses shall be consistent with both the applicant's design theme, the character objectives of the resort, and Midway City's land use ordinances. Permitted Uses shall include:

1. Retail Commercial Establishments, as listed in the attached Exhibit "A";
2. Service Commercial Establishments, limited to the following and similar uses:
 - a. business office;
 - b. catering service;
 - c. financial institution;
 - d. parking lot or garage;
 - e. personal service including barber or beauty shop;
 - f. radio or television broadcast facility;
 - g. studio for art and art instruction.
3. Rental, repair and wholesaling facilities, in conjunction with permitted retail commercial and service commercial establishments, provided all such activity is clearly incidental to the permitted use and conducted within a building.

4. Condominium-Hotel, Hotels, Lodges, Rooming houses, Boarding houses, Short-term dwelling units.
5. Storage of materials accessory to permitted uses 1, 2, 3 & 4 above, provided all such storage is located within a structure.
6. Single-family dwelling units as approved by the City Council.
7. Multi-family dwelling units as set forth herein.
8. Parks, Open-space and Recreational Uses.
9. Designated employee dwelling units and affordable housing units.
10. Parking of motor vehicles.
11. Timesharing, subject to the additional requirements set forth in the Midway City Code.
12. Mixed Use Developments on lots greater than _____ square feet.
13. Uses necessary for operation of the resort's primary recreational activities (hot springs, swimming, golf, fishing, hiking, equestrian, etc.)
14. Special events such as music and dance festivals, art and craft shows, concerts, live theater, and similar events which are compatible with the resort and its facilities. Permits for special events when attendance may exceed the established facility capacity shall be obtained from the City Planning Department and a mass gathering permit shall be obtained from Wasatch County, if required.

A minimum of 20% of the total square footage of the buildings and/or facilities in the RRZ shall be Retail Commercial or Service Commercial Establishments.

Maximum density in the Recreational Resort Zone shall not exceed 20 units per net acre. Net acre shall be the buildable space available once open space, setbacks, wildlife corridors, trails, parking requirements, sensitive lands restrictions, and other applicable restrictions are met.

Section 16.15.4 (H) (2) of the Midway City Code is hereby amended, and shall hereafter read as follows:

2. Building height and envelope restrictions. This plan shall present the proposed length, width and height from the existing natural grade of all resort buildings.
 - a. The standard maximum height for buildings in Midway is 35 feet. That maximum height restriction shall apply to the Recreational Resort Zone.

The remainder of subsection 2.a. is deleted.

Section 16.15.4 (H) (4) of the Midway City Code is hereby amended, and shall hereafter read as follows:

4. Building Setbacks. Resort building and parking areas shall be set back from resort boundaries as follows:
 - a. Buildings and parking areas in resort developments shall be setback:
 - i. For Large Recreational Resort Properties – at least 100 feet from all external public roads.

- ii. For Small Recreational Resort Properties – at least 50 feet from all external public roads.
- b. For both Large Recreational Resort Properties and Small Recreational Resort Properties, Building setbacks from internal streets shall be a minimum of 30 feet unless otherwise permitted by the Planning Commission.
- c. Resort buildings shall be setback from other resort development perimeter boundaries as follows:
 - i. For Large Recreational Resort Properties – at least 100 feet from all other resort development perimeter boundaries, unless other setbacks have been approved by the Planning Commission and City Council, and have been negotiated with adjacent landowners prior to development, or the applicant can demonstrate, by means of a physical model or electronic graphic representations of the site and proposed building locations, that resort buildings will not obscure neighbor views of the background of mountain and valley more than a normal residential structure at a standard setback of 30 feet.
 - ii. For Small Recreational Resort Properties – at least 50 feet from all other resort development perimeter boundaries, unless other setbacks have been approved by the Planning Commission and City Council, and have been negotiated with adjacent landowners prior to development, or the applicant can demonstrate, by means of a physical model or electronic graphic representations of the site and proposed building locations, that resort buildings will not obscure neighbor views of the background of mountain and valley more than a normal residential structure at a standard setback of 30 feet.

Section 16.15.3 (B) of the Midway City Code is hereby amended, and shall hereafter read as follows:

B. Development of a Master Plan. The purpose of a Recreational Resort Master Plan is to establish the development standards that will serve as a guide to all future development within a Recreational Resort Area. The Recreational Resort Master Plan is intended to be of sufficient detail to describe the amount, type, size and location of all proposed buildings, trails, open spaces, recreational facilities and all other elements of the resort and the impact of the proposed resort on surrounding neighborhoods and Midway City as a whole. Although technical specifications of the proposed development, such as fully engineered plans or fully detailed architectural drawings, are not required as part of the Master Plan, it must be prepared by a development team composed of at least a civil engineer, an architect, a landscape architect, and an attorney, all of whom must be licensed to practice in the State of Utah.

- 1. Participation in the Master Plan. While one or more landowners within a City defined potential Recreational Resort area may propose a Master Plan and maintain the role of the applicant as identified herein, all landowners within a resort area are encouraged to participate in the design of the

Master Plan. Participation of all landowners within a potential Recreational Resort Zone, however, is not required for the City to approve a Master Plan for a Recreational Resort. A Master Plan Agreement shall be entered into by any property owner proceeding to a Preliminary Approval, and shall be binding upon the property which is the subject of the signed Master Plan Agreement.

2. Review and Approval of the Master Plan. Unless otherwise modified herein, public review and Commission and Council approval for Recreational Resort Master Plans parallels the procedures set forth for a Concept Plan in other large scale development regulations of this Title. The standards for review of the Master Plan, however, are the standards set forth in this Chapter, in order to allow for flexibility and creativity in the development and review of the Master Plan. A Master Plan agreement is a requirement for any project proceeding to a preliminary approval application.
3. Recordation of the Master Plan and Master Plan Agreement. Upon approval and execution by the City Council, the Recreational Resort Master Plan and a Certificate of Standards and Conditions, and any amendments thereto, along with the fully executed Master Plan Agreement, shall be recorded in the Wasatch County Recorder's Office. The Planning Director shall prepare the affidavit certifying the details and conditions of the Recreational Resort Master Plan approved and the development standards to be applied within the recreational resort area, along with any other standards, conditions, or agreements pertaining to the future development or responsibilities of landowners within the Recreational Resort Master Plan area. This document shall be an Exhibit to the recorded Master Plan Agreement. A detailed description of the submittals required for a Recreational Resort Master Plan is presented in the Recreational Master Plan section of this Chapter.
3. Water Rights required at Master Plan Approval Stage.
 - a. Phases that implement Master Plans shall prepare applications for Preliminary and Final Approvals as otherwise required under this Chapter for Recreational Resort developments for each phase prior to implementation. The Master Plan request must show each of the proposed different phases and their construction sequence relative to each other.
 - b. In addition to the utility requirements for Concept Plans, the Master Plan application must be prepared in sufficient additional detail to receive preliminary approval from the Midway City Water Board and the Midway Sanitation District, provide for the scheduling of all necessary water mains, sewer service interceptor capacity and laterals for the entire Master Plan along with a schedule that matches the phasing plan.

- c. No entitlement rights shall vest until a Master Plan Development Agreement is signed and recorded against the development property. The Master Plan Development Agreement shall not be recorded until water rights (including shares of stock) sufficient for all phases of the development are delivered to the City to be held in escrow for so long as the Master Plan Development Agreement is enforceable. This is to ensure that the water rights are not sold separately from the development property after the City has granted development entitlements through the Master Plan Development Agreement. The water rights shall remain in escrow until: 1) they are deeded to the City as part of a final approval for each phase; 2) the Master Plan Development Agreement lapses in accordance with its terms, thus terminating any entitlement on the development property; or 3) if, prior to any phase of the development receiving final approval, the Developer informs the City in writing of its intent to abandon the entitlements received in the Master Plan Development Agreement. If the Master Plan Development Agreement is abandoned, the water rights will be returned to the land owner.
- d. Under no circumstances will the water rights be released from escrow to the developer or lending institution once the first phase of the development receives final approval.
- e. In the situation where an amendment to the Master Plan Development Agreement is approved for an unrecorded phase, and the amendment reduces the amount of water rights necessary for that phase, the extra water rights for that phase only, will be returned to the land owner.
- f. The developer's, or any other parties, remaining joint interest in the water rights for each phase shall be deeded in its entirety to the City prior to the recording of the final plat of each phase. Following such transfer of interest, no other party, including the developer shall hold any right, title or interest in the water rights so transferred. In no event shall a final plat for any development, subdivision, or phase thereof, be recorded prior to the transfer of all the right, title and interest in the required water rights to the City.
- g. In the event that any portion of the water right required for Master Plan approval pursuant to the Midway City Code has been pledged to a lending institution as partial security for a loan on the property, the lending institution must agree, in writing (through an escrow agreement), to the escrow of the water rights with the City according to the terms and conditions set forth in Master Plan

Development Agreement. The lending institution may be listed as a joint owner with the developer of the water right held in escrow. Should the lending institution need to foreclose the developer's interest in the water rights, Midway City will release the shares for the sole purpose of removing the developer's name and having the shares re-issued solely in the financial institution's name. Once done, the shares shall be submitted back to Midway City to remain in escrow. Failure to return the shares to the City for escrow shall constitute a breach of the Master Plan Development Agreement, and all entitlements associated with the Master Plan Development Agreement shall become null and void.

- h. Prior to the final approval and recording of any plat for any development, subdivision, or phase thereof, it shall be the developer's sole responsibility to secure a release of any lien or ownership interest in the water right owned by a lending institution or any other party, and to deed or transfer 100% ownership interest in that water right required for that development, subdivision, or phase thereof, to Midway City. Prior to recording a final plat, the water right associated therewith shall be unencumbered, and shall be transferred to the City free and clear of any title encumbrance.
- i. A Master Plan request must demonstrate that approval of the project in multiple phases can occur such that the project can still function autonomously if subsequent phases are not completed. Therefore, the Master Plan application must demonstrate that sufficient property, roads, sensitive lands protection, and open space are proposed with the first phase to allow the project to function without subsequent phases.
- j. Special information must also be prepared for Master Plan applications to demonstrate that all facilities necessary to implement all life safety codes in effect at the time of application will be constructed and be maintained at the time the first phase is requested of the City.
- k. Master Plan applications must be reviewed by the Planning Commission and approved by the City Council.
- l. No City Council approval may be considered until after a public hearing has been held to consider the

recommendation of the Planning Commission with regard to the Master Plan.

- m. The Planning Commission and City Council may schedule such public hearings and extra meetings as they deem necessary to find the information necessary to make a recommendation to the City Council for a Master Plan.
- n. After approval of the Master Plan by the City Council, a Master Plan Development Agreement must be prepared and executed by the applicant and the City, sufficient to describe the entitlement granted to implement the Master Plan. The Agreement must be signed by the applicant within 45 days of Final Approval of the Master Plan by the City Council. If the Agreement is not fully executed within 45 days of Final Approval, then all Master Plan approvals shall become null and void.

This ordinance shall be effective immediately upon passage. A copy of this ordinance shall be posted at each of three (3) public places within the corporate limits of Midway City and a summary published in a paper of local circulation.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah this _____ day of _____, 2018.

	AYE	NAY
Council Member Ken Van Wagoner	_____	_____
Council Member Lisa Christen	_____	_____
Council Member Bob Probst	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Jared Simonsen	_____	_____

APPROVED: (SEAL)

Celeste Johnson, Mayor

ATTEST:

APPROVED AS TO FORM:

Brad Wilson, City Recorder

Corbin Gordon, City Attorney

EXHIBIT "A"
PERMITTED RETAIL COMMERCIAL ESTABLISHMENTS

- | | |
|---------------------------------------|-------------------------------|
| 1. Antique Shop | 21. Hardware Store |
| 2. Appliance Store | 22. Hobby Shop |
| 3. Art Gallery | 23. Jewelry Store |
| 4. Art Supply Store | 24. Job Printing Shop |
| 5. Automobile Accessory Store | 25. Key Shop |
| 6. Bakery | 26. Pet Shop |
| 7. Bar | 27. Paint and wallpaper store |
| 8. Bookstore | 28. Pawn Shop |
| 9. Camera Shop | 29. Photography Shop |
| 10. Candy, tobacco or cigarette store | 30. Restaurant |
| 11. Catalogue Store | 31. Sporting Goods Store |
| 12. Clothing Store | 32. Stationery Store |
| 13. Decorator Shop | 33. Variety Store |
| 14. Department Store | |
| 15. Drugstore | |
| 16. Fitness Studio | |
| 17. Florist Shop | |
| 18. Food Market | |
| 19. Furniture Store | |
| 20. Gift Shop | |